

House Bill 183

By: Representatives Geisinger of the 48th, Cooper of the 41st, Willard of the 49th, Porter of the 143rd, Oliver of the 83rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated,
2 relating to telephone service, so as to provide a short title; to provide definitions; to provide
3 for the imposition and collection of a fee on all telephone and wireless service subscribers
4 and on sales of disposable wireless telecommunications devices and recharge credits for the
5 funding of new trauma center development, equipment for existing trauma centers, and
6 uninsured trauma services at certain hospitals and medical facilities in this state; to provide
7 for the division and allocation of such funds; to provide sanctions for failure to comply with
8 distribution requirements; to provide for certain credits; to provide for legislative oversight;
9 to provide for other related matters; to provide a contingent effective date; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 This Act shall be known and may be cited as the "Georgia Trauma Hospital Support Act of
14 2009."

15 **SECTION 2.**

16 Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to
17 telephone service, is amended by adding a new Part 5 to read as follows:

18 "Part 5

19 46-5-139.

20 (a) As used in this part, the term:

21 (1) 'Disposable wireless subscriber' means a person or entity to whom wireless service
22 is provided through the use of a disposable wireless telecommunications device and
23 prepaid credit for specified amounts of wireless service.

(2) 'Disposable wireless telecommunications device' means a device used to access wireless service which contains or is credited with a specified quantity of prepaid credit toward wireless service charges which may be discarded after the prepaid credit is exhausted or expires or may be refilled or recharged with additional prepaid credit.

(3) 'Exchange access facility' means the access from a particular telephone subscriber's premises to the telephone system of a service supplier. Exchange access facilities include service supplier provided access lines, PBX trunks, and Centrex network access registers, all as defined by tariffs of the telephone companies as approved by the Public Service Commission. Exchange access facilities shall not include service supplier owned and operated telephone pay station lines, Wide Area Telecommunications Services (WATS), Foreign Exchange (FX), or incoming only lines.

(4) 'Interconnected VoIP service' or 'interconnected Voice over Internet Protocol service' means a service that:

(A) Enables real-time, two-way voice communications;

(B) Requires a broadband connection from the user's location;

(C) Requires Internet protocol compatible customer premises equipment; and

(D) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

(5) 'Place of primary use' means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which shall be the residential street address or the primary business street address of such customer.

(6) 'Retail sale' or 'sale at retail' means a sale to a consumer or to any person for any purpose other than for resale.

(7) 'Retailer' means every person making sales at retail or for distribution, use, consumption, or storage for use or consumption in this state.

(8) 'Service supplier' means a person or entity who provides local exchange telephone service, interconnected VoIP service, or wireless service to a telephone subscriber.

(9) 'Telephone subscriber' means a person or entity to whom local exchange telephone service, interconnected VoIP service, or wireless service, either residential or commercial, is provided and in return for which such person or entity is billed on a monthly basis. When the same person, business, or organization has several telephone access lines, each exchange access facility and each Internet protocol compatible customer premises equipment shall constitute a separate subscription. When the same person, business, or organization has several wireless telephones, each wireless telecommunications connection shall constitute a separate connection.

(10) 'Wireless service' means 'commercial mobile service' as defined under Section 332(D) of the federal Telecommunications Act of 1996 (47 U.S.C. Section 157,

et seq.), regulations of the Federal Communications Commission, and the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) and includes real-time, two-way interconnected voice service which is provided over networks which utilize intelligent switching capability and offer seamless handoff to customers. The term shall not include one-way signaling service, data transmission service, nonlocal radio access line service, or a private telecommunications service.

(11) 'Wireless service supplier' means a provider of wireless service.

(12) 'Wireless telecommunications connection' means any mobile station for wireless service that connects a wireless service supplier to a provider of local exchange telephone service.

(b)(1) For the provision of uninsured trauma services in this state, each subscriber of an exchange access facility or interconnected VoIP service shall be billed a monthly fee as follows:

(A) For calendar years 2011, 2012, and 2013, a charge of \$.50 per exchange access facility or interconnected VoIP service provided to the telephone subscriber;

(B) For calendar years 2014 and 2015, a charge of \$.75 per exchange access facility or interconnected VoIP service provided to the telephone subscriber; and

(C) For calendar year 2016 and all subsequent years, a charge of \$1.00 per exchange access facility or interconnected VoIP service provided to the telephone subscriber.

All exchange access facilities and all interconnected VoIP service billed to federal, state, or local governments shall be exempt from such charge. Each service supplier shall, on behalf of the state, collect the trauma service charge from those telephone subscribers to whom it provides exchange telephone service in the area served by the service supplier. As part of its normal billing process, the service supplier shall collect the trauma charge for each month an exchange access facility is in service, and it shall list such trauma charge as a separate entry on each bill which shall be designated on such bill as 'State Trauma Fund Charge.' If a service supplier receives a partial payment for a bill from a telephone subscriber, the service supplier shall first apply the payment against the amount such telephone subscriber owes the service supplier.

(2) The subscriber of a wireless telecommunications connection whose billing address is within this state shall be billed for the monthly trauma charge for that connection by the wireless service supplier as follows:

(A) For calendar years 2011, 2012, and 2013, a wireless trauma charge of \$.50 per month per wireless telecommunications connection provided to the telephone subscriber;

(B) For calendar years 2014 and 2015, a wireless trauma charge of \$.75 per month per wireless telecommunications connection provided to the telephone subscriber; and

(C) For calendar year 2016 and all subsequent years, a wireless trauma charge of \$1.00 per month per wireless telecommunications connection provided to the telephone subscriber.

All wireless telecommunications connections billed to federal, state, or local governments shall be exempt from such wireless trauma charge. Each wireless service supplier shall, on behalf of the state, collect the wireless trauma charge from those telephone subscribers whose place of primary use is within this state. As part of its normal billing process, the wireless service supplier shall collect the trauma charge for each month a wireless telecommunications connection is in service, and it shall list such wireless trauma charge as a separate entry on each bill which shall be designated on such bill as 'State Trauma Fund Charge.' If a wireless service supplier receives partial payment for a bill from a telephone subscriber, the wireless service supplier shall first apply the payment against the amount such telephone subscriber owes the wireless service supplier.

(3) Each retailer that sells at retail disposable wireless telecommunications devices in this state or that sells prepaid credits to refill or recharge such disposable wireless telecommunications devices in this state shall pay a wireless trauma charge for each such disposable wireless telecommunications device sold in this state and each such block of prepaid credit sold in this state equal to 10 percent of the retail price of such disposable wireless telecommunications device or prepaid credit to refill or recharge such disposable wireless telecommunications device.

(c) Every telephone subscriber in this state shall be liable for the trauma and the wireless trauma charge imposed under this Code section until such charges have been paid to the service supplier. A service supplier shall have no obligation to take any legal action to enforce the collection of the trauma or wireless trauma charge. The service supplier shall provide the commissioner of revenue within 60 days the name and address of each subscriber who has refused to pay the trauma or wireless trauma charge after such charge has become due. A collection action may be initiated by the commissioner for such charge, and reasonable costs and attorney fees associated with that collection action may be awarded for collecting the trauma or wireless trauma charge.

(d)(1) Each service supplier that collects trauma or wireless trauma charges on behalf of the state shall be entitled to retain as an administrative fee an amount equal to 3 percent of the gross trauma or wireless trauma charge receipts remitted as provided in this Code section; provided, however, that such amount shall not exceed 3¢ for every dollar so remitted. The remaining amount shall be due quarterly as provided in this Code section and shall be remitted no later than 60 days after the close of a calendar quarter.

(2) The state auditor may, on an annual basis and at his or her expense, audit or cause to be audited the books and records of service suppliers with respect to the collection and remittance of trauma and wireless trauma charges.

(e)(1) Each retailer that collects wireless trauma charges on behalf of the state shall be entitled to retain as an administrative fee an amount equal to 3 percent of the gross wireless trauma charge receipts remitted as provided in this Code section; provided, however, that such amount shall not exceed 3¢ for every dollar so remitted. The remaining amount shall be due as provided in this Code section.

(2) The state auditor and the Department of Revenue may, on an annual basis and at their expense, audit or cause to be audited the books and records of retailers with respect to the collection and remittance of wireless trauma charges.

(f)(1) Each service supplier shall maintain records of the amount of the trauma and wireless trauma charges collected for a period of at least three years from the date of collection.

(2) Each retailer that collects wireless trauma charges on behalf of the state shall maintain records of the amount of the wireless trauma charges collected for a period of at least three years from the date of collection.

(g)(1) Each service supplier that collects trauma or wireless trauma charges on behalf of the state shall remit such charges, less the administrative fee allowed by this Code section, to the Department of Revenue for deposit into the state treasury no later than 60 days after the close of each calendar quarter.

(2) Each retailer that collects wireless trauma charges on behalf of the state shall remit, on or before the twentieth day of each month, such charges, less the administrative fee allowed by this Code section, to the Department of Revenue for deposit into the state treasury in the same manner as such retailer transmits returns for sales and use tax purposes. The commissioner of revenue may provide by regulation for such charges to be remitted on a quarterly or annual basis or, upon application, may permit a retailer to remit such charges on a quarterly or annual basis if deemed advisable by the commissioner of revenue. The charges remitted in accordance with this paragraph shall be accompanied by such forms as may be prescribed, prepared, and furnished by the commissioner of revenue.

(h)(1) As soon as practicable after the end of each fiscal year, but not more than six months after the close of the fiscal year, the Office of Treasury and Fiscal Services shall report the amount of funds received pursuant to this Code section to the Governor, the General Assembly, and the Office of Planning and Budget. An amount equal to 15 percent of such proceeds received from such charges in any fiscal year shall be appropriated during the following fiscal year to the Georgia Trauma Trust Fund for the

171 exclusive purposes of new trauma center development and the procurement of equipment
172 for existing trauma centers. An amount equal to 85 percent of such proceeds received
173 from such charges in any fiscal year shall be appropriated during the following fiscal year
174 to the Office of EMS/Trauma of the Department of Human Resources. These funds shall
175 be used exclusively for the purpose of funding uninsured trauma services at all public and
176 private hospitals and medical facilities maintaining trauma centers in this state as
177 designated by the Office of EMS/Trauma pursuant to the guidelines of the American
178 College of Surgeons.

179 (2) The Office of EMS/Trauma shall obtain from each public and private hospital or
180 medical facility for the preceding calendar year a report of all trauma services provided
181 to uninsured patients. Using the fee schedule created by the State Board of Workers'
182 Compensation pursuant to Code Section 34-9-205, the Office of EMS/Trauma shall
183 assign an amount of reimbursement for each such patient.

184 (3) If the funds appropriated by the General Assembly pursuant to paragraph (1) of this
185 subsection are sufficient to cover all such charges, the Office of EMS/Trauma shall
186 distribute such reimbursement to each public and private hospital or medical facility from
187 which a report of trauma services was submitted. If, after distributing the reimbursement
188 as provided in this paragraph, there are funds remaining, the Office of EMS/Trauma shall
189 retain such funds and add such funds into the appropriations for the following fiscal year
190 for uninsured trauma services reimbursement.

191 (4) If the funds appropriated by the General Assembly are insufficient to provide the full
192 amount of the reimbursement calculated in accordance with this subsection, then the
193 Office of EMS/Trauma shall distribute the funds by paying a fraction of each hospital or
194 medical facility's reimbursement. The fraction to be applied to determine the amount of
195 the reimbursement to be paid shall be calculated by dividing the total amount of the funds
196 appropriated by the total amount of reimbursement calculated in accordance with this
197 subsection.

198 (5) The failure to submit a report as provided in paragraph (2) of this subsection within
199 the time period established by the Office of EMS/Trauma shall be a waiver of any claim
200 by a hospital or medical facility to participate in the reimbursement.

201 (6) The amounts paid pursuant to paragraphs (3) and (4) of this subsection shall be
202 allocated to hospital services, physician services, EMS services, and rehabilitation
203 services in accordance with a percentage formula that shall be adopted by rule or
204 regulation of the Department of Human Resources acting through the Office of
205 EMS/Trauma and may be amended from time to time as necessary to ensure appropriate
206 division of such funds. Such reimbursement amounts shall be distributed by the public
207 or private hospital or medical facility receiving such funds in accordance with the

percentage allocation formula and may only be used for reimbursement of the services stated in the allocation. The Department of Human Resources acting through the Office of EMS/Trauma shall adopt regulations to impose penalties on any public or private hospital or medical facility that violates the requirements of this paragraph to distribute funds paid pursuant to paragraphs (3) and (4) of this subsection in accordance with the percentage allocation formula. A hospital or medical facility found to be in violation of this paragraph shall forfeit its share of such funds and shall be subject to an order from the Department of Human Resources to distribute the remaining funds in accordance with the percentage allocation formula and a civil fine not to exceed \$10,000.00. In determining the amount of the civil fine, the Department of Human Resources shall consider the following:

- (A) Whether the violation was willful;
- (B) Whether the violation is a first violation or a repeated violation; and
- (C) The dollar amount of the violation.

The Office of EMS/Trauma shall remit to the general treasury any funds forfeited.

(7) A physician, a provider of EMS services, or a provider of rehabilitation services shall have a private right of action against a public or private hospital or medical facility for failure to distribute funds received pursuant to paragraphs (3) and (4) of this subsection in accordance with the percentage allocation formula as provided in paragraph (6) of this subsection and may recover the amount due to such physician or provider under the percentage allocation formula, attorney fees, and all other costs of collection.

(i) Each insured person receiving trauma services at a public or private hospital or medical facility that receives funds under this Code section shall receive a credit of \$12.00 against any copayment or deductible for which such insured person is responsible for each year such person, his or her spouse, or, in the case of a minor child, his or her parent or guardian has paid the monthly trauma charge on a residential exchange access facility or interconnected VoIP service or the monthly wireless trauma charge on a wireless telecommunications connection. In the event that such person, his or her spouse, or, in the case of a minor child, his or her parent or guardian has paid the monthly trauma charge for more than one residential exchange access facility or interconnected VoIP service, the monthly wireless charge for more than one wireless telecommunications connection, or a combination of such charges, the credits shall be cumulative. A public or private hospital or medical facility may require such person to submit reasonable proof of such payments prior to granting such credit. This credit shall not apply to fees paid relating to disposable wireless telecommunications devices.

(j)(1) The Georgia Trauma Care Overview Committee is created. The committee shall consist of five members of the House of Representatives appointed by the Speaker of the

House of Representatives and five members of the Senate appointed by the President of the Senate. The members shall serve for terms as members of the committee concurrent with their terms of office as members of the General Assembly. Members of the committee shall be appointed during the first 30 calendar days of each regular legislative session which is held immediately following the election of members of the General Assembly; provided, however, that an appointment to fill any vacancy on the committee may be made at any time.

(2) The Speaker of the House of Representatives shall designate one of the members appointed by the Speaker as chairperson of the committee. The President of the Senate shall designate one of the members appointed by the President of the Senate as vice chairperson of the committee. The members designated as chairperson and vice chairperson shall serve for terms as such officers concurrent with their terms as members of the committee. Other than the chairperson and vice chairperson provided for in this subsection, the committee shall provide for its own organization.

(3) The committee shall periodically inquire into and review the operations, contracts, financing, organization, and structure of the Office of EMS/Trauma and the Georgia Trauma Trust Fund as well as periodically review and evaluate the success with which said entities are accomplishing their legislatively created purposes.

(4) The state auditor and the Attorney General shall make available to the committee the services of their staffs, facilities, and powers in order to assist the committee in the discharge of its duties. The committee may employ staff and secure the services of independent accountants and consultants, provided that both the employment and the amount of compensation to be received by such personnel is authorized by a joint resolution of the General Assembly. Upon authorization by joint resolution of the General Assembly, the committee shall have the power to compel the attendance of witnesses and the production of documents in aid of its duties.

(5) The Office of EMS/Trauma, the Georgia Trauma Trust Fund, and the Georgia Trauma Care Network Commission shall cooperate with the committee, its authorized personnel, the Attorney General, the state accounting officer, and the state auditor in order that the committee may efficiently and effectively carry out its duties. The Office of EMS/Trauma, the Georgia Trauma Trust Fund, and the Georgia Trauma Care Network Commission shall submit to the committee such reports and data as the committee shall reasonably require of such entities in order that the committee may adequately inform itself of the activities of said entities. The committee shall, on or before the first day of January of each year and at such other times as it deems to be in the public interest, submit to the General Assembly a report of its findings and recommendations based upon

the review of the operations of the Office of EMS/Trauma and the Georgia Trauma Trust Fund.

(6) In the discharge of its duties, the committee shall evaluate the performance of the Office of EMS/Trauma and the Georgia Trauma Trust Fund in funding trauma services and developing new trauma centers consistent with the following criteria:

(A) Prudent, legal, and accountable expenditure of public funds;

(B) Responsiveness to the needs for trauma services;

(C) Economic vitality of the state trauma system and economic benefits to the state;

(D) Efficient operation; and

(E) Impact on the provision of trauma services in this state.

(7) The members of the committee shall receive the same expenses and allowances for their services on the committee as are authorized by law for members of interim legislative study committees."

SECTION 3.

This Act shall become effective on January 1, 2011, provided that a constitutional amendment authorizing the collection and appropriation of trauma charges on telephone subscribers to assist in the funding of uninsured trauma services at public and private hospitals and medical facilities maintaining trauma centers in this state is passed and ratified in the November, 2010, general election. Otherwise, this Act shall stand repealed by operation of law on January 1, 2011.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.